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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,805	09/07/2000	Richard Niccolai	32955	1855

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EXAMINER

DABNEY, PHYLESHA LARVINIA

ART UNIT PAPER NUMBER

2643

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/656,805

**Applicant(s)**

NICCOLAI, RICHARD

**Examiner**

Phylesha L Dabney

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.  
4a) Of the above claim(s) 1-37 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 38-52 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

This action is in response to the request for reconsideration filed on 29 March 2005 in which claims 38-52 are pending. Applicant's request to vacate the previous office action mailed 12 January 2005 is granted.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Juneau (U.S. Patent No. 6,022,311).

Regarding claims 38-41, in figure 1, Juneau teaches a hearing device having a first and second part (items 1 and 2; col. 5 line 45 through col. 6 line 31). Juneau does not specifically teach how to manufacture the two part hearing aid device. However, the examiner takes official notice that it is known in the art any plastic process such as blowmolding, rotomolding, thermosetting, injection molding, etc., to produce hearing aid shells. More specifically, injection molding which can be performed by many methods such as single-shot, multicomponent molding, etc., is well known in the art for forming and joining elastomeric materials utilizing specialized machines that allow modification of temperatures, pressures, melt properties of the material and thus creating a elastomeric shell with the desired characteristics quickly. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made

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to use any known manufacturing process including multi-component injection molding to form and join the two part hearing device of Juneau for the reasons stated above.

Regarding claims 42-43, Juneau teaches at least one of the first and second parts is an acoustical conductor (fig. 1).

Regarding claim 44, Juneau teaches the acoustical conductor is formed at an input side/output side of an acoustical/electrical transducer of the hearing device (fig. 1).

Regarding claim 45, Juneau teaches one of the first and second parts is a resilient bush configured to seat a transducer (fig. 1).

Regarding claim 46, Juneau teaches forming and joining a third part of the hearing device integrally with the first and second parts by multi component injection molding (see the rejection of claim 1 with respect to fig. 1).

Regarding claim 47, Juneau teaches the first, second, and third parts comprise a housing, a seating bush, and an acoustical conductor (fig. 1).

Regarding claim 48, Juneau teaches the second part is a rim portion of a feed-through aperture of a housing (fig. 1).

Regarding claim 49, Juneau teaches the first part is a first surface area of a housing for the hearing device and the second part is a second surface area of the housing, the second surface area being adjacent to the first surface area (fig. 1).

Regarding claim 50, Juneau teaches the first and second surface areas are differently palpable (col. 5 lines 63-65 and col. 6 lines 5-8).

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Regarding claim 51, Juneau teaches mounting a unit (4, 5, 6, 8, 17, 21, etc.) of the hearing device into an opening of a bordering area, the bordering area being formed by the first and second parts.

Regarding claim 52, Juneau teaches the unit of the hearing device is a manually operable control element (17, 21).

### ***Response to Arguments***

Applicant's arguments with respect to claims 38-52 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Injection Molding Handbook (3<sup>rd</sup> Edition) edited by Rosato, "Specialized Injection Molding Processes" (15:1216-1224).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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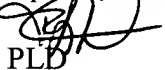
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 6, 2005

  
PLD

  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
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